



U.S. Department of Justice

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Eastern District of New York*

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FOR IMMEDIATE RELEASE

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PRESS RELEASE

**CHIEF EXECUTIVE OFFICER OF NEW YORK INVESTMENT FIRM INDICTED
ON CHARGES OF SECURITIES FRAUD AND OBSTRUCTION OF JUSTICE**

Defendant Altered Documents to Obstruct SEC's Investigation

GEORGE M. MOTZ, the president, CEO and Chairman of the Executive Committee of Melhado, Flynn & Associates ("MFA"), a broker-dealer and investment advisor registered with the former National Association of Securities Dealers, was arrested this morning and charged by indictment with securities fraud and altering documents to obstruct a United States Securities and Exchange Commission ("SEC") examination.¹ The defendant is scheduled to be arraigned at 1:30 this afternoon before United States Magistrate Judge A. Kathleen Tomlinson, at the U.S. Courthouse, in Central Islip, New York. The case has been assigned to United States District Judge Arthur D. Spatt.

The charges were announced by Benton J. Campbell, United States Attorney for the Eastern District of New York, and Mark J. Mershon, Assistant Director-in-Charge of the Federal Bureau of Investigation, New York Field Division.

According to the indictment, from November 2000 to June 2005, MOTZ engaged in a fraudulent trade allocation scheme known as "cherry-picking." Through this scheme, MOTZ generated virtually risk-free profits for MFA's proprietary trading account and an advisory client hedge fund, Third Millennium Fund, L.P., at the expense of other MFA discretionary clients. Of the 204 trades MOTZ assigned to MFA's proprietary trading account in the relevant time period, 202 were profitable. In the proprietary account alone, MOTZ generated approximately \$1.4 million in profits as a result of the fraud scheme.

As part of the charged scheme, MOTZ typically submitted stock "buy" orders to the

¹ The charges in the indictment are merely allegations, and the defendant is presumed innocent unless and until proven guilty.

MFA trading desk in the morning, without indicating the accounts to which those purchases should be allocated, and did not provide the trading desk with allocation instructions until later in the day – often shortly before the close of the market. In effect, MOTZ purchased securities in the morning and then decided later in the day whether to sell the position and book the profit in either MFA’s proprietary trading account or the Third Millennium Fund, or to allocate the securities, often those that had depreciated in value during the day, to MFA’s discretionary client accounts. The indictment alleges that from November 2000 to September 2003, MFA’s proprietary trading account was the beneficiary of MOTZ’s scheme, and that from June 2003 to May 2005 the scheme favored the Third Millennium Fund. While MOTZ carried out his scheme, MFA’s discretionary account clients were falsely assured that, to the extent MFA engaged in proprietary trading on the firm’s behalf, the firm’s account would not be favored over the clients’ accounts.

The indictment also alleges that, in the fall of 2003, MOTZ and others altered trade tickets associated with MFA’s proprietary trading account in order to make it appear as though the trades in question had been allocated earlier in the trading day than they actually were allocated, thereby concealing the scheme from SEC examiners who were conducting an on-site examination of MFA’s New York office. The SEC filed civil charges against MOTZ and MFA in February 2007.

“The defendant’s scheme tilted the playing field to the advantage of favored investors at the expense of the investing public,” stated United States Attorney Campbell. “Such conduct undermines the public’s confidence in our securities markets and will be vigorously investigated and prosecuted.”

FBI Assistant Director-in-Charge Mershon stated, “This case is another example of our commitment and determination to combat criminal activity in our nation’s financial markets.”

The government’s criminal case is being prosecuted by Assistant United States Attorneys James G. McGovern and Daniel A. Spector.

The Defendant:

Name: GEORGE M. MOTZ

Age: 66